

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANITA B. CARR,

Plaintiff,

V.

**LIBERTY LIFE ASSURANCE
COMPANY, et al.,**

Defendants.

NO. C05-3190 TEH

ORDER RE: HEARING ON
PLAINTIFF'S MOTION TO
COMPEL ARBITRATION

This matter comes before the Court on Plaintiff Anita Carr's motion to compel arbitration against Defendant Liberty Life Assurance Company ("Liberty"). The Court is in receipt of the parties' stipulation to continue the April 17, 2006 hearing to Monday, May 8, 2006, to accommodate Carr's counsel's schedule. Although it is not clear from the parties' stipulation whether good cause exists to continue the hearing (e.g., counsel does not state when he developed a conflict, the nature of that conflict, or whether such conflict was unavoidable), the Court also finds no prejudice to grant a request to continue that has been agreed upon by both parties and that does not conflict with the Court's own calendar.

Accordingly, IT IS HEREBY ORDERED that the hearing on Carr's motion to compel arbitration is continued to **Monday, May 8, 2006, at 10:00 AM.**

22 IT IS FURTHER ORDERED that the parties shall be prepared to address at the
23 motion hearing whether Liberty was, in fact, an agent of Providian Bancorp Services
24 (“Providian”). The parties shall also be prepared to discuss the impact of the Ninth Circuit’s
25 decision in *Britton v. Co-op Banking Group*, 4 F.3d 742 (9th Cir. 1993), which neither party
26 cited in their papers but which appears to present the governing rule here. Carr contends that
27 Liberty is bound by the arbitration clause in the employment agreement between Carr and
28 Providian as an agent of Providian, and the Ninth Circuit in *Britton* held that the “key

1 question" in applying an arbitration clause to a nonsignatory agent is whether any of the
2 agent's alleged wrongdoing "relate[s] to or arise[s] out of the contract containing the
3 arbitration clause." *Britton*, 4 F.3d at 747.

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5 **IT IS SO ORDERED.**

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7 Dated: 04/10/06

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THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

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